

ARIZONA TAX COURT

TX 1997-000075

11/18/2005

HON. PAUL A KATZ

CLERK OF THE COURT
W. Bobrowski
Deputy

FILED: 11/23/2005

HELEN H LADEWIG

RANDALL D WILKINS

V.

ARIZONA DEPT OF REVENUE

LISA A NEUVILLE

EUGENE O DUFFY PHV
ONEIL CANNON & HOLLMAN, SC
STE 1400 111 W WISCONSIN AVE
MILWAUKEE WI 53202-4803
JOHN W RASMUSSEN

UNDER ADVISEMENT RULING

The Court having taken Defendants' Motion for Order Authorizing Corrections to Overpaid Claims under advisement; having reviewed the memoranda of the parties and legal authorities cited therein; and good cause appearing,

IT IS ORDERED granting, in part, and denying, in part, Defendants' Motion for Order Authorizing Corrections to Overpaid Claims for the reasons that follow:

The Court concludes that the instant issue has properly been submitted to the Court. The errors in the calculation of the refunds due under the Settlement, and ensuing overpayments in the first installment, and potential overpayments in the second and third installments, constitute “a major problem with respect to the administration and processing of refunds.” *See* Settlement Agreement, ¶ 16. These overpayments were the result of data processing errors, i.e. the application of the stipulated to refund formula to reported corporate dividend income, which was erroneously entered into the data processing system.

To the extent that the first installment payment under the Settlement resulted in overpayments, the Court will not permit the Department to directly collect the monies that the overpaid claimants received in excess of the amount actually owed to them. The Court assumes that the overpaid claimants have detrimentally relied on the first disbursement, especially in view of the fact that payments were distributed over a year ago, and more likely than not, the

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taxpayers did not have their old tax records at the time of receipt of such payments to independently verify the amount of their entitled refund.

With respect to the taxpayers who were overpaid in the first installment, and are scheduled to receive a second and/or third installment payment, the Department may offset the amount of the overpayment against any monies which may be payable to these taxpayers in the subsequent installment payments.

IT IS FURTHER ORDERED that the Department shall disburse the second installment payment to the affected taxpayers no later than March 1, 2006. The Court does not find any reason to extend the date of the final installment payment, scheduled for July 21, 2006.

IT IS FURTHER ORDERED that the Department shall give the affected class members notice of any changes prior to, or contemporaneously with, the second installment payment, and in accordance with the forms of notice set forth in the Settlement.